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terpretation.”” It may be doubted, however, whether the criticism is wholly merited. In California, it is very plain that for a court to decide as did the English Court that the crime of killing, though not amounting to murder, deprived the slayer of his right to succeed, would not be interpretation at all, for our statute expressly mentions murderers only and provides that they shall not succeed⁸ to the estate of the person murdered. The Supreme Court of California has, therefore, been forced to hold that the legislature did not intend to exclude from succession those guilty of homicide of a less degree of turpitude.⁹ But where the statute is silent, it is not apparent why courts should not read it in the light of broad principles of justice. The whole history of equity is the history of the application of such principles to situations which the strict rules of law made intolerable. Now that the law has absorbed equity, it would seem that the English Court’s method of dealing with the question is better than that adopted by the Oklahoma Court, or even than that suggested by Professor Ames.

O. K. M.

TORTS: CIVIL RESPONSIBILITY FOR ACCIDENTAL INJURY.—From the early common law down to the present time the law concerning civil responsibility for accidental injury to another’s person or property has undergone a great many changes. The more marked and rapid development has, of course, come through the legislature rather than through the courts. In fact, the courts have shown a decided reluctance to impose any liabilities on any ground other than a delictual or quasi-delictual one. *Nahl v. Alta Irrigation District et al*¹ is but one of a long line of cases that show this attitude. The fact that a thing under the care of or owned by the defendant is the instrumentality which occasions the damage is given little or no consideration in determining his liability,—the question is, how has the defendant conducted himself personally? In short, one assumes very little responsibility by virtue of his ownership of almost any kind of property, except as concerns a blameworthy conduct in the handling of the property.

This position is explained at length and supported by Mr. Justice Holmes.²

Mr. Mignault, of Montreal, on the other hand, takes a broader point of view and shows that the more liberal principles applied in France compare very favorably with the English and American

⁷ Professor Pound, 7 Col. L. R., at p. 382.

⁸ Civil Code, Cal. sec. 1409. It should be noted that the statute applies only to the case of succession, and does not mention wills.

⁹ *In re Kirby’s Estate*, (1912) 162 Cal. 91, 121 Pac. 370.

¹ 17 Cal. App. Dec. 634, (Nov. 22, 1913.)

² The Common Law, by O. W. Holmes, Jr., Chapter III, “Torts, Trepass and Negligence,” pp. 77-129.

strictness based on an extremely high regard for every possible protection of the ownership of property. He shows that under the French law one is civilly liable for damages caused: (1) by his own fault; (2) by the fault of persons under his control; and (3) by things which he has under his care.³

Civil responsibility for damages caused by things which one has under his care is a new doctrine in the civil law of France and its extent is not absolutely ascertained. Three views have been developed. The first admits of a presumption of fault, dispensing the plaintiff from proving anything save the accident and the damage suffered by him, which presumption, however, can be rebutted by the defendant by showing the absence of fault. This, however, is not the prevailing view in France. The second position, which seems to be that generally adopted by the French law, is that the defendant cannot rebut the legal presumption of fault where the injury is caused by his property, by proving that he was himself free from all negligence, but he must show that the accident was caused by a *cas fortuit* or a *force majeure*. And, third, by some decisions he is left only the slender chance of escaping from a condemnation by proving that the damage was caused by an act of God. In general, the tendency of the new school of jurisprudence in France is to relieve the plaintiff from the obligation of proving any negligence at all.

In England and America, a similar doctrine has been given legislative sanction in favor of the workingman, in the shape of employer's liability and compensation laws. Through such legislation employees have acquired a status which is denied to all others. It seems that a more liberal view is an inevitable development in this branch of the law.

H. S. D. C.

TORTS: LIABILITY OF INDEPENDENT TORTFEASORS CAUSING A SINGLE INJURY.—A lumber company placed logs in a stream, which, with other logs independently placed in the stream by other companies, formed a jam. This was permitted to remain for an unreasonable time and caused the current of the stream to be deflected, to the injury of plaintiff's land. The Supreme Court of Washington, held the defendant liable for the entire injury.¹

The case clearly points out that the defendant's breach of duty was not the formation of the jam but his omission to break the jam after it was formed. He was a co-proprietor in a nuisance to the same extent as if he had contributed money to construct it.

³ "The Modern Conception of Civil Responsibility," by P. B. Mignault, Esq., K. C. (Montreal), 11 Society of Comparative Legislation Journal, 162.

¹ Johnson v. Thomas Irvine Lumber Co., (1913) 135 Pac. 217.